IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 137 OF 1989.

The Commissioner of Income-tax ... Applicant.

V/s.

M/s Hind Filters Pvt.Ltd. .. Respondent.

Shri A.N. Kotangale with D.A. Dubey i/b K.C. Sidhwa for the applicant.

Shri B.V. Jhaveri i/b J.I. Patel for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 25.7.2005

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in directing the Income-tax Officer to consider the amount of Rs. 6,27,945/- being the sales-tax subsidy received by the assessee, subsequently, as in nature, of Capital Receipts despite the fact that the assessee was allowed the deduction of this amount in the earlier years as trading liability?

. Learned Counsel for both the parties agreed that the above question is covered by the judgment of this Court in the case of **Sahney Steel and Press Works Ltd. vs. C.I.T. (1997) 228 ITR 253(SC).** The incentives were given to the respondent-assessee unit by way of refund of sales-tax. The Apex Court, considering identical issue ruled that such payments were nothing but subsidy paid. In this view of the matter, following the judgment of the Supreme Court in Sahney Steel and Press Works Ltd.(supra), the Tribunal was not right in treating receipt of the subsidy as capital receipt. In this view of the matter, the issue is answered in the negative i.e. in favour of the assessee and against the revenue.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**